

1996

Underground Storage Tank Regulations

Title 23, Waters

Division 3, Water Resources Control Board

Chapter 16, Underground Storage Tank Regulations

I. Rulemaking Index

1996
Index to Rulemaking File
Underground Storage Tank Regulations
Title 23, Waters
Division 3, Water Resources Control Board
Chapter 16, Underground Storage Tank Regulations

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II. Memoranda

a. Project: Regulations

Reduction: To Jorge Leon, Senior Staff Counsel of the Office of the Chief Counsel, from Barbara Wightman, Regulations Coordinator of the UST Program, dated March 11, 1996

MEMORANDUM

To: Jorge León
Senior Staff Counsel
Office of the Chief Counsel

Date: March 11, 1996


Barbara Wightman, Regulations Coordinator
Underground Storage Tank Program

From: Division of Clean Water Programs
State Water Resources Control Board
2014 T Street, Sacramento, CA 95814
Mail Code G-8

Subject: PROJECT: REGULATIONS REDUCTION

We spoke last week about a change in purpose for repealing Appendix IV. That change was made and is included in the attached explanatory statement. Also, the strikeout text in Sections 2643(f)(1) and 2644 reflect the changes we discussed. Attached is a new, complete package including:

1. Statement pursuant to CCR Section 100(b), explaining why repeal of the appendices does not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulation.
2. Appendices III, IV, and V in strikeout format.
3. Amended text in Sections: 2635(d)
2636(c)(2)
2643(a)
2643(f)(1)
2644
2648(b)

Text in these sections was amended to delete reference to the repealed appendices.

TITLE 23, DIV. 3, CH 16
CALIFORNIA CODE OF REGULATIONS
REPEAL OF APPENDICES

Explanatory statement pursuant to CCR Section 100(b):

Repealing Appendices III, IV, and V from Chapter 16, CCR does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Appendix III

Appendix III contains examples of quantitative and qualitative release detection methods for underground storage tanks. When the Appendix was added to the regulations in 1991, it was intended as a quick reference for the reader's convenience. When the regulations were amended in May 1994, the text in Article 4 was restructured to make it easier to find information about specific release detection methods, making Appendix III unnecessary.

Appendix IV

Appendix IV contains U.S. EPA's requirements for procedures for evaluating the performance of leak detection equipment. The appendix duplicates text from EPA's publication, "Standard Test Procedures for Evaluating Leak Detection Methods." It is the SWRCB's routine procedure to notify all interested parties of available publications (such as EPA's) via brochures and newsletters.

Underground storage tank program local regulators, equipment manufacturers, and other interested parties have been made aware of the availability of EPA's publication through pamphlets, guidance letters, and newsletters. However, the text in Sections 2644(a) and 2643(f)(1) is being amended to provide EPA's hotline telephone number so that all readers of the regulations will have access to the publication.

The fact that the text in Appendix IV is duplicative, and the fact that a telephone number for obtaining a copy of the publication is being included in the text of the regulations makes Appendix IV unnecessary.

Appendix V

Appendix V contains a form used by tank owners to verify that their tank installations were done properly. The form, "CERTIFICATE OF COMPLIANCE FOR UNDERGROUND STORAGE TANK INSTALLATION - FORM C" is optional, provided specific information is included in the owner's certification. The specific information is stated in Section 2635(d), making Appendix V unnecessary.

Title 23, Div. 3, Ch. 16 California Code of Regulations

Section 2635(d)

- (d) Owners or their agents shall certify that the installation of the tanks and piping meets the conditions in subdivisions (1) through (5) below. ~~The certification shall be made on a "Certificate of Compliance for Underground Storage Tank Installation Form C" (see Appendix V).~~

Title 23, Div. 3, Ch. 16 California Code of Regulations

Section 2636(c)(2)

(c) Underground primary piping shall meet all of the following requirements:

- (2) Primary piping and secondary containment systems shall be installed in accordance with an industry code of practice developed in accordance with voluntary consensus standards. The owner or operator shall certify that the piping was installed in accordance with the above requirements of section 2635(d). ~~The certification shall be made on the "Certification of Compliance for Underground Storage Tank Installation Form C" (see Appendix V).~~

Title 23, Div. 3, Ch. 16 California Code of Regulations

Section 2643(a)

- (a) Non-visual quantitative release detection methods shall comply with the requirements of this section. Subsection (b) contains monitoring requirements for underground storage tanks; subsection (c) for pressurized piping; subsection (d) for suction piping; and subsection (e) for gravity-flow piping. ~~Examples of release detection methods that may be used to meet the requirements of this section are in Appendix III.~~

Title 23, Div. 3, Ch. 16 California Code of Regulations

Section 2643(f)(1)

- (f) Each quantitative release detection method, with the exception of manual inventory reconciliation and manual tank gauging, shall be certified to comply with the performance standard(s) specified in this section and shall be subject to limitations specified in the certification. This certification shall be obtained by the equipment manufacturer following one of the evaluation procedures in subdivisions (1) through (3) below:
 - (1) An independent third party testing laboratory shall evaluate and approve the method using the appropriate "EPA Standard Test Procedure" for leak detection equipment ~~in Appendix IV~~; or,

Title 23, Div. 3, Ch. 16 California Code of Regulations

Section 2644

- (a) An owner or operator who is required, pursuant to section 2641 to establish a non-visual monitoring program, shall comply with the requirements of this section if a qualitative release detection method is used. Each qualitative release detection method, including interstitial monitors, shall have an independent third-party evaluation to certify accuracy and response time of the detection method ~~in accordance with procedures in Appendix IV. Examples of qualitative release detection methods that may be used are in Appendix III~~

Title 23, Div. 3, Ch. 16 California Code of Regulations

Section 2648(b)

- (b) Ground water monitoring may be used as the sole release detection method of non-visual monitoring for existing underground storage tanks only when all of the following conditions exist:
- (2) Continuous monitoring devices or manual methods are used which are capable of detecting the presence of at least one-eighth of an inch of free product on top of the ground water in the monitoring wells. This capability shall be certified by an independent third party using an appropriate evaluation procedure. ~~Examples of acceptable evaluation procedures are in Appendix IV;~~

APPENDIX III.

Examples of Quantitative Release Detection Methods for Existing Tanks

Detection Method	Performance Standards
Automatic Tank Gauging (Monthly)	Section 2643(b)(1)
Automatic Tank Gauging (Monthly) and Manual Inventory Reconciliation (Monthly)	Section 2643(b)(2)
Tank Integrity Test (Annually) and Manual Inventory Reconciliation (Monthly)	Section 2643(c)(2)(B) (b)(4)
Statistical Inventory Reconciliation (Monthly) and Tank Integrity Testing (Biennially)	Section 2643(b)(3)
Manual Tank Gauging (Weekly) and Tank Integrity Testing (Annually)	Section 2645

Examples of Quantitative Release Detection Methods for Single-Walled Pressure Piping

Automatic Line Leak Detector (Hourly) and Automatic Electronic Line Leak Detector (Monthly)	Section 2643(c)(1) Section 2643(c)(2)
Automatic Line Leak Detector (Hourly) and Automatic Electronic Line Leak Detector (Annually)	Section 2643(c)(1) Section 2643(c)(3)
Automatic Line Leak Detector (Hourly) and Line Tightness Test (Annually)	Section 2643(c)(1) Section 2643(c)(3)
Automatic Electronic Line Leak Detectors (Hourly) (meets both 2643(c)(1) and (3) standards)	Section 2643(c)(3)

Examples of Qualitative Release Detection Methods for Single-Walled Suction Piping

Line Tightness Test (Triennially) and Daily Monitoring	Section 2643(d) Appendix H
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APPENDIX III. (cont)

Example of Qualitative Release Detection Methods for Single-Walled Gravity Flow Piping

Line Tightness Test (Biennially)

Section 2643(c)

Examples of Qualitative Release Detection Methods for Existing Tanks and Piping

Vapor Monitoring
or
Ground Water Monitoring

Sections 2644(a) and (b) and 2647

Sections 2644(a) and (c) and 2648

~~APPENDIX IV.~~

~~EVALUATION PROCEDURE FOR LEAK DETECTION EQUIPMENT~~

~~Leak detection equipment can be evaluated for performance in accordance with one of the following three evaluation procedures:~~

~~1. EPA Standard Test Procedures~~

~~EPA has developed a series of standard test procedures that cover most of the methods commonly used for underground storage tank leak detection. These include:~~

- ~~a. "Standard Test Procedures for Evaluating Leak Detection Methods: Volumetric Tank Tightness Testing Methods"~~
- ~~b. "Standard Test Procedures for Evaluating Leak Detection Methods: Nonvolumetric Tank Tightness Testing Methods"~~
- ~~c. "Standard Test Procedures for Evaluating Leak Detection Methods: Automatic Tank Gauging Systems"~~
- ~~d. "Standard Test Procedures for Evaluating Leak Detection Methods: Statistical Inventory Reconciliation Methods"~~
- ~~e. "Standard Test Procedures for Evaluating Leak Detection Methods: Vapor-Phase Out-of-Tank Product Detectors"~~
- ~~f. "Standard Test Procedures for Evaluating Leak Detection Methods: Liquid-Phase Out-of-Tank Product Detectors"~~
- ~~g. "Standard Test Procedures for Evaluating Leak Detection Methods: Pipeline Leak Detection Systems"~~

~~Each test procedure provides an explanation of how to conduct the test, how to perform the required calculations, and how to report the results. The results from each standard test procedure provide the information needed by tank owners and operators to determine if the method meets the regulatory requirements.~~

~~EPA standard test procedures must be conducted by an independent third party under contract to the manufacturer in order to prove compliance with the regulations. Independent third-parties may include consulting firms, test laboratories, not-for-profit research organizations, or educational institutions with no organizational conflict of~~

interest. In general, evaluations are more likely to be fair and objective the greater the independence of the evaluating organization.

2. National Consensus Code or Standard

A second way for a manufacturer to prove the performance of leak detection equipment is to have an independent third party evaluate the system following a national voluntary consensus code or standard developed by a nationally recognized association (e.g., ASTM, ASME, ANSI, etc.). Throughout the technical regulations for underground storage tanks, EPA has relied on national voluntary consensus codes to help tank owners decide which brands of equipment are acceptable. Although no such code presently exists for evaluating leak detection equipment, one is under consideration by the ASTM D-34 subcommittee. Guidelines for developing these standards may be found in the U.S. Department of Commerce "Procedures for the Development of Voluntary Product Standards" (FR, Vol 51, No 118, June 20, 1986) and OMB Circular No A-119.

3. Alternative Test Procedures Deemed Equivalent to EPA's

In some cases, a specific leak detection method may not be adequately covered by EPA standard test procedures or a national voluntary consensus code, or the manufacturer may have access to data that makes it easier to evaluate the system another way.

Manufacturers who wish to have their equipment tested according to a different plan (or who have already done so) must have that plan developed or reviewed by a nationally recognized association or independent third-party testing laboratory (e.g. Factory Mutual, National Sanitation Foundation, Underwriters Laboratory, etc.). The results should include an accreditation by the association or laboratory that the conditions under which the test was conducted were at least as rigorous as the EPA standard test procedure. In general, this will require the following:

- a. The evaluation tests the system both under the no-leak condition and an induced-leak condition with an induced leak rate as close as possible to (or smaller than) the performance standard. In the case of tank testing, this will mean testing under both 0.0 gallon per hour and 0.10 gallon per hour leak rates. In the case of ground water monitoring, this will mean testing with 0.0 and 0.125 inch of free product.
- b. The evaluation should test the system under at least as many different environmental conditions as the corresponding EPA test procedure.
- c. The conditions under which the system is evaluated should be at least as rigorous as the conditions specified in the corresponding EPA test procedure. For example, in the case of volumetric tank tightness testing, the test should include a temperature difference between the delivered product and that already present in the tank, as well as the deformation caused by filling the tank prior to testing.

- d. ~~The evaluation results must contain the same information and should be reported following the same general format as the EPA standard results sheet.~~
- e. ~~The evaluation of the leak detection method must include physical testing of a full-sized version of the leak detection equipment, and full disclosure must be made of the experimental conditions under which: (1) the evaluation was performed, and (2) the method was recommended for use. An evaluation based solely on theory or calculation is not sufficient.~~

~~APPENDIX V.~~

~~CERTIFICATE OF TANK AND PIPE INSTALLATIONS~~

The owner or operator shall use the form below to certify that the underground storage tank and piping were installed properly.

~~STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
CERTIFICATION OF COMPLIANCE
FOR UNDERGROUND STORAGE TANK INSTALLATION
FORM 0~~



~~COMPLETE A SEPARATE FORM FOR EACH TANK SYSTEM~~

~~I. SITE LOCATION~~

~~STREET _____
CITY _____ COUNTY _____~~

~~II. INSTALLATION (mark all that apply)~~

- ☐ The installer has been certified by the tank and piping manufacturers
- ☐ The installation has been inspected and certified by a registered professional engineer.
- ☐ The installation has been inspected and approved by the implementing agency
- ☐ All work listed on the manufacturer's installation checklist has been completed
- ☐ The installation Contractor has been certified or licensed by the Contractors State License Board
- ☐ Another method was used as allowed by the implementing agency (Please specify: _____)

~~III. OATH I certify that the information provided is true to the best of my belief and knowledge.~~

~~Tank Owner/Agent _____ Date _____
Print Name _____ Phone (____) _____
Address _____~~

~~LOCAL AGENCY USE ONLY~~

~~STATE TANK I.D. # _____ COUNTY # _____ JURISDICTION # _____ FACILITY # _____ TANK # _____~~

~~FORM 0 (1/81) THIS FORM MUST BE ACCOMPANIED BY PERMIT APPLICATION FORMS A & B UNLESS THEY HAVE BEEN FILED PREVIOUSLY~~

b. Rulemaking Calendar
Amendments: To Mike Scheible,
Jesse R. Huff, James W. Wells,
Bob Borzelleri, Ralph E.
Chandler, and Jim Bennett from
Val E. Siebal, dated February 1,
1996



California
Environmental
Protection
Agency

555 Capitol Mall
Suite 235
Sacramento, CA
95814
(916) 445-3846
(916) 445-6401 FAX

Air Resources
Board

Department
of Pesticide
Regulation

Department
of Toxic
Substances
Control

Integrated
Waste
Management
Board

Office of
Environmental
Health Hazard
Assessment

State Water
Resources
Control Board

Regional
Water Quality
Control Boards

MEMORANDUM



Pete Wilson
Governor

James M. Strock
Secretary for
Environmental
Protection

TO: Mike Scheible Bob Borzelleri
Jesse R. Huff Ralph E. Chandler
James W. Wells Jim Bennett

FROM: *JKL* Val F. Siebal
Senior Program Coordinator

DATE: February 1, 1996

SUBJECT: RULEMAKING CALENDAR AMENDMENTS

Following the January 29, 1996 Policy Staff meeting, Undersecretary Pandol directed that amendments to rulemaking calendar occur in order to meet repeal of identified regulations by the June 30, 1996 deadline.

The following amended rulemaking calendars will be forwarded to the Office of Administration Law (OAL) on February 1, 1996:

AGENCY	CONTACT PERSON	AMENDMENTS
CIWM		NO CHANGES
OEHHA		NO CHANGES
ARB		NO CHANGES
DPR	Roy Rutz	Accelerated repeals for adoption to April 1996 and to OAL June 1996.
DTSC		Changed Project Managers as requested for R-96-27 and R-96-28.
SWRCB		Accelerated the following: all to OAL by June 1996.
	Sandy Malos	Clean Water Repeals and Loans to Public Agencies
	Ted Cobb	General Provision Repeals
	John Norton	Certifications Repeals
	Barbara Wrightman	Underground Tank Repeals

The Chairs or Directors may contact Undersecretary Jack Pandol to negotiate any changes to the above.



Recycled Paper

RULEMAKING CALENDAR AMENDMENTS
February 1, 1996
Page 2

2/15
per [unclear]
Tuesday 2/21
OCC is fine

In addition, those regulations that can be repealed using Section 100 documents should reach OAL by February 16th, at the latest.

Also, please copy all cover sheets and Standard Form 100 Facesheets regarding repeals, notices of hearing, and final transmittal notices you send out to Ms. Artavia Edwards at ARB. She will be tracking and reporting our progress on this project to the Secretary.

Should you have any questions regarding this guidance memorandum, please call me.

c. Repeals Pursuant to Governor's
Executive Order: To Ted Cobb,
Sandy Malos, Barbara Wightman,
John Youngerman, Rosemary
Mulligan, James Kassel, Patricia
Meroney, from Jorge A. Leon,
Senior Staff Counsel of the
Office of Chief Counsel, dated
February 27, 1996

Memorandum

To : Ted Cobb
Sandy Malos
Barbara Wightman
John Youngerman
Rosemary Mulligan
James Kassel
Patricia Meroney

Date: FEB 27 1996



Jorge A. León
Senior Staff Counsel

From : OFFICE OF THE CHIEF COUNSEL
STATE WATER RESOURCES CONTROL BOARD
901 P Street, Sacramento, CA 95814
Mail Code G-8

Subject: REPEALS PURSUANT TO GOVERNOR'S EXECUTIVE ORDER

At our last group meeting on February 22, 1996, we agreed to set up a follow-up meeting for March 7, 1996 at 10:00 a.m. Again, we will meet in the OCC Conference Room, 901 P Street, 4th Floor. Those of you who were unable to attend last meeting should especially attend the next meeting. We discussed issues involving document preparation, format, timing, and APA requirements. This memo summarizes the discussion.

Fiscal Impact Statements

Attached please find a copy of the current revision of Form 399, "Fiscal Impact Statement," to comply with Government Code Section 11346.5. The form must be completed to estimate fiscal impact on state and local agencies. Also attached is SAM Section 6055 which contains instructions for Form 399. If all boxes are checked "no impact", we do not need Department of Finance approval. If there is a potential impact, the forms must be submitted to Department of Finance for approval. The approved forms can be submitted to OAL at the end of the rulemaking process, so transmittal to and approval from Finance can run concurrently with our notice and comment period.

OAL Checklist for Rulemaking

Attached also is a checklist provided by OAL to help assure compliance with all OAL requirements. This should help in assuring that each step is taken in the rulemaking process.

FEB 27 1996

Format

We agreed to use the format that was created by Sandy Malos. Copies were distributed at the meeting. If you need one, contact Sandy or me. We also agreed that the next draft (first for some of you) will be submitted to me for review prior to March 7, along with a diskette containing all required documents, so that I can review for legal sufficiency and assure consistent format.

Timing

In order to meet our deadline of submittal to OAL by July, it looks like we need to meet the following deadlines:

March 7, 1996	Draft to JAL
March 26, 1996	All docs to OAL for publication
March 26, 1996	Mail Notice directly to public and to Cal/EPA Coordinator
May 20, 1996	Receive Comments
May 20 - May 27	Respond to Comments
May 5, 1996	Determine whether to hold workshop
June 5/6, 1996	Workshop, if any
June 20, 1996	Adoption by SWRCB
July 1, 1996	Transmit to OAL

This is a tighter schedule than we had discussed at the first meeting on January 10, 1996, made necessary by Cal/EPA's desire to transmit the repeals to OAL in July instead of August. There is a slight cushion built into this schedule in the event we need to re-notice any substantive changes for 15 days.

Ted and I will be available throughout the process to answer legal questions.

Attachments

REGULATIONS AND ORDERS)

TD 300 (REV. 9-84) RLC

See SAM Section 6055 for Instructions

DEPARTMENT NAME

CONTACT PERSON'S NAME

TELEPHONE NUMBER

TITLE/DESCRIPTION OF REGULATION/ORDER

FISCAL EFFECT ON LOCAL GOVERNMENT

(Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years)

- ☐ 1. Additional expenditures of approximately \$_____ in the current State Fiscal Year which are reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code. Funding for this reimbursement:
- ☐ a. is provided in (Item _____ Budget Act of _____) or (Chapter _____ Statutes of _____)
- ☐ b. will be requested in the _____ Governor's Budget for appropriation in Budget Act of _____
(FISCAL YEAR)
- ☐ 2. Additional expenditures of approximately \$_____ in the current State Fiscal Year which are not reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code because this regulation:
- ☐ a. implements the Federal mandate contained in _____
- ☐ b. implements the court mandate set forth by the _____
court in the case of _____ vs. _____
- ☐ c. implements a mandate of the people of this State expressed in their approval of Proposition No. _____ at the _____
election; (DATE)
- ☐ d. is issued only in response to a specific request from the _____
_____, which is/are the only local entity(s) affected;
- ☐ e. will be fully financed from the _____
(FEES, REVENUE, ETC.) _____ authorized by Section _____
of the _____ Code.
- ☐ f. provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each such unit
- ☐ 3. Savings of approximately \$_____ annually.
- ☐ 4. No additional costs or savings because this regulation makes only technical, nonsubstantive or clarifying changes to current law and regulations
- ☐ 5. No fiscal impact exists because this regulation does not affect any local entity or program.
- ☐ 6. Other _____

FISCAL EFFECT ON STATE GOVERNMENT

(Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

- ☐ 1. Additional expenditures of approximately \$_____ in the current State Fiscal Year. It is anticipated that State agencies will
- ☐ a. be able to absorb these additional costs within their existing budgets and resources.
- ☐ b. request an increase in the currently authorized budget level for the _____ fiscal year.
- ☐ 2. Savings of approximately \$_____ in the current State Fiscal Year.
- ☐ 3. No fiscal impact exists because this regulation does not affect any State agency or program
- ☐ 4. Other _____

(Continue on reverse)

(REGULATIONS AND ORDERS)

STD 309 (REV 9-94) (REVERSE) FMC

See SAM Section 6055 for Instructions

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS (Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

- ☐ 1. Additional expenditures of approximately \$ _____ in the current State Fiscal Year
- ☐ 2. Savings of approximately \$ _____ in the current State Fiscal Year.
- ☐ 3 No fiscal impact exists because this regulation does not affect any federally funded State agency or program
- ☐ 4. Other

SIGNATURE		TITLE	
AGENCY SECRETARY APPROVAL/CONCURRENCE		DATE	
DEPARTMENT OF FINANCE APPROVAL/CONCURRENCE	PROGRAM BUDGET MANAGER 	DATE	

OAL File No. _____

Agency: _____

Reviewer: _____

NONEMERGENCY CHECKLIST

(all citations are to the Govt. Code unless otherwise noted)

	OK	PROBLEMS
<p>I. INITIAL REVIEW</p> <p>A. Regulatory action completed and transmitted within 1 year of notice publication. (§11346.4(b))</p> <p>B. Request for early effective date; and showing of good cause. (§11343.4)</p> <p>C. Certificate of Compliance submitted to OAL within 120 days of effective date of emergency regulations. (§11346.1(e))</p> <p>1. Special statute for more or less time.</p> <p>2. B.2 on Form 400 properly marked, or appropriate certification in file. (§11346.1(e))</p> <p>D. RESUBMITTED FILINGS; IF NONE, GO TO E.</p> <p>1. Resubmission of previously disapproved regulation within 120 days of receipt of decision of disapproval. (§11349.4)</p> <p>2. Extension granted by Director for good cause. (§11349.4(a))</p> <p>3. If not, within 1 year of notice publication date. (§11346.4(b))</p> <p>4. Prior filing must:</p> <p>a. Be identified by date of submission to OAL;</p> <p>b. Specify portions of prior RMF to be incorporated into the resubmission; and</p>		

c. Be included with the rulemaking file if previously returned to agency. (§11349.4(c); CCR, Title 1, §84)

E. Approval by Director of Consumer Affairs. (Bus. & Prof. Code §313.1)

F. State Fire Marshal approval. (§11359)

G. Any other review/approval required by the agency's statutory scheme.

II. TEXT

A. Certification of text in writing by head of adopting agency or designee. (§11343(f); Form 400 B.7)

B. Prechange text matches text filed with Secretary of State.

C. Amendments in underline/italic and strikeout format. (§11346.2(a)(3))

D. Any differences between text submitted to OAL and text as adopted by agency.

E. Authority and Reference citations. (§11346.2(a)(2))

III. INCORPORATION BY REFERENCE (If none, go to next heading)

A. Statement that document is incorporated by reference; identify document by title and date of publication. **EXCEPTION:** No date required if authorizing statute requires adoption/enforcement of incorporated provision and any subsequent amendments. (CCR, Title 1, §20(c)(4))

B. Identification of which portions of document are incorporated. (CCR, Title 1, §20(c)(5))

C. Statement in FSOR that publication of incorporated document in CCR would be cumbersome, etc. (CCR, Title 1, §20(c)(1))

D. Six copies of incorporated document unless the document is formal publication and reasonably available from commonly known or identified source. (CCR, Title 1, §20(d))

EXCEPTION: If another provision of law specifically requires adoption or enforcement of incorporated material, no OAL review of material for compliance with §11349.1. (CCR, Title 1, §20(b))

IV. CONTENTS OF RMF

A. **Table of Contents/Index** identifies each item in RMF. (§11347.3(a)(12))

1. Affidavit/Declaration under penalty of perjury stating:

- a. Date record closed;
 - and
 - b. RMF is complete.
- (§11347.3(a)(12))

B. **Statement of mailing notice** (§11346.4(a)(1-4); Title 1, CCR, §86)

C. **Text** of regulations as originally proposed; modified text made available to public. (§11347.3(a)(10))

D. **Petition** proposing regulatory change. (§§11340.7; 11347.3(a)(1))

E. **Petition** requesting public hearing. (§§11346.8(a); 11347.3(a)(6))

F. Adequate **transcript**, recording or minutes of public hearing. (§11347.3(a)(8); CCR, Title 1, §90)

G. If regulation requires a **report** and applies to business, required finding. (§11346.3(c))

H. **Notice** to public if hearing continued or postponed. (§11346.8(b))

I. **Notice of Proposed Action** (§11347.3(a)(2))

1. At least **45 days** have passed between publication of notice and close of written public comment period and hearing. (§11346.4) Only 30 days if regulations established routes for the transportation of explosives. (Vehicle Code §31616)

2. Content

a. Time, place, nature of proceeding. (§11346.5(a)(1))

(1) If hearing was continued or postponed, second notice must be given the public as to when it would be resumed. (§11346.8(b))

b. Authority and Reference citations. (§11346.5(a)(2))

c. Informative Digest

(1) Summary of existing laws and regulations. (§11346.5(a)(3))

(2) **Effect of proposed regulation adequately described.** (§11346.5(a)(3))

(3) If comparable federal regulation or statute:

(a) brief description of significant differences and citations (§11346.5(a)(3));

(b) summary of agency efforts to minimize duplication and conflicts, if applicable.

(§11346.5(a)(3), 11346.2(b)(6), 11349(f))

(4) Identify by title and date of publication any document

incorporated by reference. (CCR, title 1, §20(c)(3))

d.-Other statutory requirements - specific agency/type of regulation. (§11346.5(a)(4))

e. Local mandate determination (policy or expenditure). (§11346.5(a)(5))

(1) If "yes," does mandate require reimbursement?

f. Cost estimate (§11346.5(a)(6))

(1) Cost or saving to any state agency; and

(2) Cost to any local agency or school district for which §§17500-17630 require reimbursement; and

(3) Other non-discretionary cost or savings imposed upon local agencies; and

(4) The cost or savings in federal funding to the state.

g. Assessment of potential adverse economic impact on business/private persons. (§11346.3(a))

(1) If agency finds no adverse economic impact, notice must include declaration to that effect. (§11346.5(a)(8))

(2) If agency finds no adverse economic impact, record must include evidence relied upon. (§11346.5(a)(8))

(3) If agency finds potential adverse impact:

(a) ID of types of businesses affected. (§11346.5(a)(7)(A))

(b) Description of projected compliance requirements. (§11346.5(a)(7)(B))

(c) Statement inviting proposals in required language. (§11346.5(a)(7)(C))

h. Directly Affected Private Persons/Businesses Potential Cost Impact Statement. (§11346.5(a)(9))

i. Statement of results of assessment for creation/elimination of jobs, creation/elimination/expansion of business. (§11346.5(a)(10))

j. (for notices published after 7/22/94) Determination whether regulation affects small business (CCR, title 1, 4(a)); if not, brief explanation of reasons (CCR, title 1, 4(c)); if yes, (1) concise plain English policy statement overview explaining broad objectives and specific objectives; if appropriate; (2) either required statement that regulation in plain English or that not feasible due to technical nature but plain English summary available (CCR, title 1, 4(b))

k. If any agency determines "significant effect on housing costs," notice must so state, etc. (§11346.5(a)(11))

l. Statement that the agency must determine that no alternative considered would be more effective or less burdensome. (§11346.5(a)(12))

m. Agency contact person and phone #. (§11346.5(a)(13))

n. Deadline for written comments. (§11346.5(a)(14))

o. Initial statement of reasons prepared and available. (§11346.5(a)(15))

p. Availability of, and location of information upon which proposal is based (rulemaking file). (§11346.5(a)(15); §11346.5(b).)

q. Availability of express terms. (§11346.5(a)(15) and (b); §11346.2(a))

r. 15-day request for public hearing. (§11346.5(a)(16))

s. 15-day availability of changes. (§11346.5(a)(17))

J. INITIAL STATEMENT OF REASONS

1. Public problem.
administrative requirement, condition or
circumstance. (§11346.2(b)(1))
2. Specific purpose of
proposed action. (§11346.2(b)(2))
3. Rationale/reasonable
necessity for proposed regulation.
(§11346.2(b)(2))
4. Identification of each
study, report, document relied upon, if
any. (§11346.2(a)(3))
5. If any identified, small
business alternatives.
(§11346.2(b)(4)(B))
6. If specific technologies or
equipment are mandated (or specific
actions or procedures prescribed),
agency must supply the reasons for
requiring same. (§11346.14(a))
7. A description of
alternatives to the regulation that were
considered by the agency, if any, and
agency's reasons for rejection of same.
(§11346.14(b); §11340.1)
8. A statement that no
alternative considered by the agency
would be more effective or would be as
effective and less burdensome to
affected private persons.
(§11346.14(b); §11340.1)

K. FISCAL IMPACT

1. In addition to disclosures
in notice, RMF must include supporting
data relied upon. (§11349.1(d)(1))
2. If regulation results in
cost to local agency/school district,
OAL MUST DISAPPROVE unless RMF contains:
 - a. Citation to Budget
Act. (§11349.1(d)(3)(A)); or
 - b. Citation to
accompanying bill. (§11349.1(d)(3)(B));
or
 - c. DOF approval.
(§11349.1(d)(3)(C)); or

d. DOF authorization.
(\$11349.1(d)(3)(D)); AND

e. DOF concurrence in
estimate. (SAM 6056)

3. STD Form 399

a. Properly filled out
and signed. DOF concurrence required?
(SAM 6055, 6056);

b. Computations leading
to dollar estimate. (SAM 6055)

L. 1. Updated Informative Digest
(\$11346.9(b)):

2. Summary of laws and
regulations directly related to action.

3. Summary of effect of
action.

M. All written comments and other
information submitted to the agency.
(\$11347.3(a)(6))

N. All data relied upon by the
agency. (\$11347.3(a)(7))

O. Any other information,
statement, report or data which agency
is required to consider or prepare.
(\$11347.3(a)(11))

P. For regulations adopted by a
department, board, or commission within
Cal EPA, Resources Agency, or State Fire
Marshal, see 11346.2(b)(6).

Q. If regulation affects small
business:

1. plain English policy
statement overview (located in notice if
published after 7/22/94); and

2. statement confirming
regulation in plain English (CCR, title
1, 4(d)(1)); or (A) statement of agency
determination that not feasible to draft
regulation in plain English and (B) a
plain English summary (CCR, title 1,
4(d)(2); 11346.2(a)(1)). Was the
statement made available?
(11346.2(a)(1))

R. Assessment of: creation or elimination of jobs; creation, elimination or expansion of business (if in written form other than statement in the notice). (11346.3(b))

V. POST-NOTICE MODIFICATIONS

Differences between originally noticed text and text submitted to OAL.

IF NONE, GO TO NEXT HEADING.

(§11346.8(c))

A. If yes, was change nonsubstantial (CCR, Title 1, §40) or solely grammatical in nature? (§11346.8(c))

1. If yes, go to next heading.
2. If no, go to B.

B. Change sufficiently related? (§11346.8(c); CCR, Title 1, §42)

1. If yes, go to C.
2. If no, new 45-day notice necessary. (§11346.8(c))

C. Modified text made available to public 15 days prior to adoption. (§§11347.3(a)(10); 11346.8(c))

1. If yes, go to D.
2. If no, new 15-day notice necessary.

D. Adequate notice of availability.

1. Period within which comments will be received. (CCR, Title 1, §44(a))
2. Accompanied by full text of regulation as originally proposed, with changes clearly indicated, with written description of method. (§11346.8(c); CCR, Title 1, §§44, 46)
3. Identification of document incorporated by reference, not identified in original notice. (CCR, Title 1, §20(c)(3))
4. **Statement** that agency complied with CCR, Title 1, §44(b) including:

a. Date notice mailed;
b. Beginning and ending
dates of public availability. (CCR,
Title 1, §44(b))
c. If no persons to mail
to, statement confirming this; also,
beginning and ending dates of public
availability. (CCR, Title 1,
§44(c), (d))

VI. FINAL STATEMENT OF REASONS
(§§11347.3(a)(2); 11346.7(b))

A. Update of information in ISR.
 (§11346.9(a)(1))

B. 1. Update of documents relied
upon by agency: Identification and
copy. (§§11346.9(a)(1), 11347.3(a)(7);
CCR, Title 1, §45)

2. If identified in ISR and
made available for public review during
original comment period, go to C. If
not, go to 3.

3. If did not identify
document in ISR, OR if did not make
document available, did agency comply
with notice requirement in CCR, Title 1,
§45.

C. Determination whether
regulations impose mandate upon local
agencies/school districts.
 (§11346.9(a)(2))

1. If "yes", was mandate
reimbursable under §§17500-17630?

a. If "not reimbursable",
statement of reasons for the finding of
non-reimbursability.

D. Determination, with supporting
evidence, that no alternative would be
more effective/as effective and less
burdensome to affected persons.
 (§11346.9(a)(4))

E. Reasons for rejecting proposed alternatives to lessen impact on small business. (§11346.9(a)(5))

F. Summary of each objection or recommendation regarding regulation or procedure received during comment period, with copy of comments, data, etc. submitted to agency.
(§§11346.9(a)(3); 11347.3(a)(6))

1. Summary of objection/recommendation made during 15-day notice period, with copy of comments, data, etc. specifically directed at 15-day changes.
(§§11346.9(a)(3) and 11346.8(c))

2. Explanation of accommodation or reason for rejecting objection/recommendation.
(§11346.9(a)(3))

VII. SUBSTANTIVE REQUIREMENTS

A. **AUTHORITY** (§§11349(b), 11342.2; CCR, Title 1, §14)

1. Must have specific authority to impose fine or imprisonment. (§11145)

B. **NECESSITY** (§11349(a); CCR, Title 1, §10)

C. **CLARITY** (§11349(c); CCR, Title 1, §16)

D. **CONSISTENCY** (§11349(d))

1. Permit Reform Act.
(§§15371-15378)
2. Public Records Act.
(§§6250-6267)
3. Information Practices Act.
(Civil Code §§1789-1789.77)
4. Bagley-Keene Open Meeting Act. (§§11120-11132)
5. CEQA (Public Resources Code §§21000, 21080.5; CCR, Title 14, §§15000, 15250, 15307, 15308)

OK

PROBLEMS

E. REFERENCE (§11349(e); CCR, Title 1, §14(b))

F. NONDUPLICATION (§11349(f), 11346.2(b)(6); CCR, Title 1, §12)

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STATE ADMINISTRATIVE MANUAL

BUDGETING

FISCAL IMPACT ON FEDERAL FUNDING OF STATE PROGRAMS (Revised 7/86)

6054

Increase in Federal Funding

Federal funding of State programs could increase as the result of State regulations if the State acts to exercise authority granted by the Federal Government. Most likely, this would involve programs which have established sharing ratios (e.g., AFDC) and the State acts to increase the size of either the client group or the payments themselves. In this context, it is important to distinguish between regulations which implement Federal mandates and those which are issued under authority granted by the Federal Government. It should be noted that recent court cases have held that the threatened loss of federal funds is not equivalent to a federal mandate.

Rather than sampling any affected State and/or local entities, it would be appropriate and acceptable for the issuing State agency to either calculate the increased Federal cost (based on established sharing ratios) or to contact the Federal agencies involved for their estimates of any fiscal impact.

Reductions (savings) in Federal Funds

As with increased Federal costs, decreases would most likely result in programs involving sharing ratios. The same methodology suggested for estimating Federal costs may be employed also for Federal savings.

FISCAL IMPACT STATEMENT (Revised 7/86)

6055

A State regulation which relates only to the internal management of the issuing agency or which can be described as a form is not a "regulation" for purposes of the requirements herein pertaining to the preparation of fiscal estimates. However, every other regulation must include an estimate and/or determination by the issuing agency of its fiscal effect on governmental agencies. Fiscal Impact Statement, Std. Form 399, (see 6055 Illustration) has been developed for this purpose, a copy of which should be attached to each Face Sheet for Filing Administrative Regulations, Form OAL 4, with the Office of Administrative Law (OAL). Copies of computations leading to dollar estimates should also be attached. A copy of the local mandate determination, the Std. Form 399, and any attachments thereto must be retained by the issuing agency in the rule-making file required by Government Code Section 11347.3. The Office of Administrative Law will not approve regulation filings which do not include a properly completed Std. Form 399. Instead, Office of Administrative Law is required by Section 11349.1(6) to return any regulation to the adopting agency if the adopting agency either:

- o Has not prepared the required cost estimate and included it in the rule-making file; or
- Has prepared the required estimate and concluded that the costs of the regulation to local government will be reimbursable, but the adopting agency fails to either:
 - Cite an appropriate budget act item or chaptered bill as a source of reimbursement funding; or
 - Attach a letter from the Department of Finance which states that Department of Finance has approved a request to include funding in the next Governor's Budget and Budget Bill.

ESTIMATES WHICH REQUIRE DEPARTMENT OF FINANCE ACTION (Revised 7/86)

6056

In some instances, a State agency is not required to obtain the concurrence of the Department of Finance in its estimate of the fiscal effect on governmental entities. However, such concurrence is required for those estimates which contain any of the following elements, as depicted in 6055:

- A.1--Reimbursable Local Costs
- A.2(f)--Non-Reimbursable Local Costs (costs/savings)
- B.1--State Costs
- B.2--State Savings

(Continued)

STATE ADMINISTRATIVE MANUAL

BUDGETING

(Continued)

ESTIMATES WHICH REQUIRE DEPARTMENT OF FINANCE ACTION (Revised 7/86)

6056

In addition, Department of Finance approval is required for the inclusion in any such estimate of any statement to the effect that reimbursement of local costs will be requested in a subsequent Governor's Budget.

Requests for Department of Finance's concurrence in or approval of a cost estimate for a proposed executive regulation should be forwarded to the Department of Finance principal analyst assigned to the issuing State agency at least 30 days prior to the date on which the "notice of proposed adoption" or "finding of an emergency" is proposed to be issued. Questions regarding any technical aspects of the local mandate law should be directed to the Legislation and Intergovernmental Relations Unit of the Department of Finance.

Section 11346.52, as added by Chapter 327/82, specifically authorizes the Department of Finance to "...review any estimate...for content including, but not limited to, the data and assumptions used in its preparation."

INPUT FROM OTHER GOVERNMENTAL AGENCIES IN THE DEVELOPMENT OF FISCAL ESTIMATES (Revised 7/86)

6057

State agencies which propose to issue regulations should allow for input from any and all other governmental agencies which express concern about the potential fiscal impact of the regulation on them. Such input should be solicited by the issuing agency by all means practical, including public hearings, OAH "Notice Supplement," and any other appropriate means.

Although Department of Finance concurrence is required only for those circumstances set forth in 6056, such concurrence may be requested for any other circumstances as well. When Finance has concurred in the fiscal estimate, Finance will, if requested, be primarily responsible for providing evidence and testimony to the Commission on State Mandates on any claim from local government that the estimate is not accurate. Conversely, the issuing State agency will be primarily responsible in instances where Finance's concurrence was not obtained.

THE INITIATION OF CHANGE

PURPOSE (New 11/73)

6060

The purpose of these sections is to stress those actions in the budget development and enactment process which may be used to bring about significant change in the functions or organization of agencies of State Government. In this sense, significant change means such things as the transfer, consolidation or coordination of part of an agency or its functions with other parts of the agency or with another agency, or the abolishment or establishment of functions and parts of an agency. The primary purpose is to explain how change comes about.

By contrast, many actions taken which are intended to bring about change seem to fail in their objective. Normally, this happens because the means used fails to reach any part of the decision process in a form to compete for funding in the decision process in either the Administration or the Legislature.

IMPETUS (New 11/73)

6061

For significant change to occur, there must be sufficient impetus. This normally takes the form of recognition of a need for change and strong motivation for its accomplishment. The impetus may come from the provider of services at any level of government or from user or client or advocate groups. The need may be expressed in many forms; for example, employee suggestions, correspondence from the public, the public news media, or formal and informal analyses of existing programs and their effectiveness. The channel may be through the Administration to the Legislature or directly from the public or a special interest group to a legislator.

III. SWRCB Rulemaking Calendar for 1996 - Repeals

1-10-96

Wrightman

SWRCB RULEMAKING CALENDAR FOR 1996--REPEALS

Office of the Chief Counsel will be responsible for:

Chapter 1: General Provisions

Chapter 1.5: Rules of Practice and Procedure

Chapter 6: Review by State Board of Action or Failure to Act
by Regional Board

Division of Water Rights will be responsible for:

Chapter 2: Appropriation of Water

Chapter 2.5: Water Rights for Stockponds

Chapter 3: Determination of Right to the Use of Water

Division of Water Quality will be responsible for:

Chapter 9.1: Enforcement Procedures

Chapter 10: Licensing and Regulation of Oil Spill Cleanup
Agents (Rule 100)

Chapter 28: Certifications

Division of Clean Water Programs will be responsible for:

(Chapter 16: Underground Tank Regulations

Chapter 24: Loans to Public Agencies

Chapter 25: Clean Water Grant Program

Agnes Fitting
June Hendry

STATE WATER RESOURCES CONTROL BOARD REGULATIONS PROPOSED FOR
REPEAL

TITLE 23
DIVISION 3

Chapter 1

Sec 640
641
641.1

Chapter 1.5

Sec 647
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649.6

Chapter 2

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764.12
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Chapter 2.5

Sec. 880
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Chapter 3

Sec. 940
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Chapter 6

Sec. 2054
2055
2068

Chapter 9.1

Sec. 2240
2242

Chapter 10

Sec. 2300
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2310.1
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2311.1
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2313
2314
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Chapter 16

Article 10 Appendix III
Appendix IV
Appendix V
~~Appendix VI~~

already repealed

Chapter 24

Sec. 3580
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Chapter 25

Sec. 3610
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Chapter 28

Sec. 3841
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100. PUBLICATION OF CHANGES WITHOUT REGULATORY EFFECT.

(a) Subject to the approval of OAL as provided in subsections (c) and (d), an agency may add to, revise or delete text published in the California Code of Regulations without complying with the rulemaking procedure specified in Article 5 of the APA only if the change does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision. The addition, revision or deletion is a "change without regulatory effect." Changes without regulatory effect include, but are not limited to:

- (1) renumbering, reordering, or relocating a regulatory provision;
- (2) deleting a regulatory provision for which all statutory or constitutional authority has been repealed;
- (3) deleting a regulatory provision held invalid in a judgment that has become final, entered by a California court of competent jurisdiction, a United States District Court located in the State of California, the United States Court of Appeals for the Ninth Circuit, or the United States Supreme Court; however, OAL shall not approve any proposed change without regulatory effect if the change is based on a superior court decision which invalidated the regulatory provision solely on the grounds that the underlying statute was unconstitutional;
- (4) revising structure, syntax, cross-reference, grammar, or punctuation;

(5) changing an "authority" or "reference" citation for a regulation; and,

(6) making a regulatory provision consistent with a changed California statute if both of the following conditions are met:

(A) the regulatory provision is inconsistent with and superseded by the changed statute, and

(B) the adopting agency has no discretion to adopt a change which differs in substance from the one chosen.

(b) In submitting a change without regulatory effect to OAL for review the agency shall:

(1) submit seven copies of the regulations with an addition shown in underline or italics and a deletion shown in strike-out; and

(2) attach to each copy a completed Form 400, with at least one Form 400 bearing an original signature; and

(3) submit a written statement explaining why the change does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

(c) OAL shall determine whether a change submitted is a change without regulatory effect within 30 working days of its receipt. OAL shall send written notification of the determination to the agency which submitted the changes.

(d) If OAL determines that the submitted change is a change without regulatory effect, OAL shall file it with the Secretary of State and have it published in the California Code of Regulations.

NOTE: Authority cited: Sections 11342.4 and 11349.1(c), Government Code. Reference: Sections 11342(g), 11343.8, 11344.6 and 11346, Government Code; and Article III, Section 3.5, California Constitution.

HISTORY

1. New section filed 1-2-86; effective upon filing pursuant to Government Code section 11346.2(d) (Register 86, No. 1).

2. Change without regulatory effect pursuant to section 100, title 1, California Code of Regulations adding quotation marks around "Changes Without Regulatory Effect" in the section heading; substituting "California Code of Regulations" for "California Administrative Code" in subsections (b), (b)(1) and (b)(2); and substituting "11349.1(c)" for "11349.1(b)" in the NOTE filed 1-5-89; operative 1-5-89 (Register 89, No. 3).

3. Editorial correction of HISTORY 2 (Register 89, No. 12).

4. Change without regulatory effect amending section filed 7-25-90 pursuant to section 100, title 1, California Code of Regulations; operative 7-25-90 (Register 90, No. 38).

5. Change without regulatory effect pursuant to section 100, title 1, California Code of Regulations adding new subsection (a); redesignating subsections (a), (b) and (c) as new subsections (c), (d) and (b) respectively; adding the word "calendar" to redesignated subsection (c); and changing "face sheet" to "Form 400" in subsection (b)(2) filed 3-25-92; operative upon filing (Register 92, No. 19).

6. Amendment filed 5-18-94; operative 5-18-94 (Register 94, No. 20).

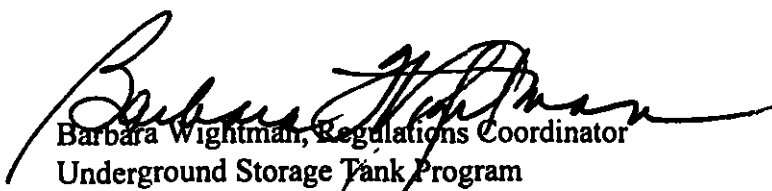
7. Editorial correction of subsection (d) and HISTORY 4 and 5 (Register 94, No. 23).

8. Change without regulatory effect pursuant to Section 100, Title 1, California Code of Regulations deleting "s" from the second "changes" in subsection (d) and adding "11342(g)," to the reference citation under "NOTE." Filed 1-3-95;

MEMORANDUM

To: Jorge León
Senior Staff Counsel
Office of the Chief Counsel

Date: February 21, 1996


Barbara Wightman, Regulations Coordinator
Underground Storage Tank Program
From: Division of Clean Water Programs
State Water Resources Control Board
2014 T Street, Sacramento, CA 95814
Mail Code G-8

*first try
see
amendments*

Subject: PROJECT: REGULATIONS REDUCTION

We spoke last Thursday, February 15, about repealing the targeted Title 23 appendices via CCR Section 100. Attached are:

1. Statement pursuant to CCR Section 100(b), explaining why repeal of the appendices does not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulation.
2. Appendices III, IV, and V in strikeout format.
3. Amended text in Sections: 2635(d)
2636(c)(2)
2643(a)
2643(f)(1)
2644
2648(b)

Text in these sections was amended to delete reference to the repealed appendices.

I believe you said you were going to attach the Form 400 and make a combined package out of Section 100 repeals for other programs. If you would like for me to complete the Form 400, or do any other work on this, please let me know. I am at 227-4318.

TITLE 23, DIV. 3, CH 16
CALIFORNIA CODE OF REGULATIONS
REPEAL OF APPENDICES

Explanatory statement pursuant to CCR Section 100(b):

Repealing Appendices III, IV, and V from Chapter 16, CCR does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Appendix III

Appendix III contains examples of quantitative and qualitative release detection methods for underground storage tanks. When the Appendix was added to the regulations in 1991, it was intended as a quick reference for the reader's convenience. When the regulations were amended in May 1994, the text in Article 4 was restructured to make it easier to find information about specific release detection methods, making Appendix III unnecessary.

Appendix IV

Appendix IV contains U.S. EPA's requirements for procedures for evaluating the performance of leak detection equipment. This is ~~verbatim text from~~ EPA's publication, "Standard Test Procedures for Evaluating Leak Detection Methods," which is available by calling U.S. EPA at (800) 424-9346.

The appendix duplicates text from - but is to provide out list when to get pub

Underground storage tank program local regulators, equipment manufacturers, and other interested parties have been made aware of the availability of EPA's publication through pamphlets, guidance letters, and newsletters. However, the text in Sections 2644(a) and 2643(f)(1) is being amended to provide EPA's hotline telephone number so that all readers of the regulations will have access to the publication.

The fact that the text in Appendix IV is duplicative of language in EPA's publication, and the fact that a telephone number for obtaining a copy of the publication is being included in the text of the regulations makes Appendix IV unnecessary.

Appendix V

Appendix V contains a form used by tank owners to verify that their tank installations were done properly. The form, "CERTIFICATE OF COMPLIANCE FOR UNDERGROUND STORAGE TANK INSTALLATION - FORM C" is optional, provided specific information is included in the owner's certification. This specific information is stated in Section 2635(d), making Appendix V unnecessary.

Title 23, Div. 3, Ch. 16 California Code of Regulations

Section 2635(d)

- (d) Owners or their agents shall certify that the installation of the tanks and piping meets the conditions in subdivisions (1) through (5) below. ~~The certification shall be made on a "Certificate of Compliance for Underground Storage Tank Installation Form C" (see Appendix V).~~

Title 23, Div. 3, Ch. 16 California Code of Regulations

Section 2636(c)(2)

(c) Underground primary piping shall meet all of the following requirements:

- (2) Primary piping and secondary containment systems shall be installed in accordance with an industry code of practice developed in accordance with voluntary consensus standards. The owner or operator shall certify that the piping was installed in accordance with the above requirements of section 2635(d). ~~The certification shall be made on the "Certification of Compliance for Underground Storage Tank Installation Form C" (see Appendix V).~~

Title 23, Div. 3, Ch. 16 California Code of Regulations

Section 2643(a)

- (a) Non-visual quantitative release detection methods shall comply with the requirements of this section. Subsection (b) contains monitoring requirements for underground storage tanks; subsection (c) for pressurized piping; subsection (d) for suction piping; and subsection (e) for gravity-flow piping. ~~Examples of release detection methods that may be used to meet the requirements of this section are in Appendix III.~~

Title 23, Div. 3, Ch. 16 California Code of Regulations

Section 2644

- (a) An owner or operator who is required, pursuant to section 2641 to establish a non-visual monitoring program, shall comply with the requirements of this section if a qualitative release detection method is used. Each qualitative release detection method, including interstitial monitors, shall have an independent third-party evaluation to certify accuracy and response time of the detection method. ~~The evaluation shall be in accordance with procedures in Appendix IV. Examples of qualitative release detection methods that may be used are in Appendix III the publication, "Standard Test Procedures for Evaluating Leak Detection Methods," available from the United States Environmental Protection Agency, telephone (800) 424-9346.~~

Title 23, Div. 3, Ch. 16 California Code of Regulations

Section 2648(b)

- (b) Ground water monitoring may be used as the sole release detection method of non-visual monitoring for existing underground storage tanks only when all of the following conditions exist:
- (2) Continuous monitoring devices or manual methods are used which are capable of detecting the presence of at least one-eighth of an inch of free product on top of the ground water in the monitoring wells. This capability shall be certified by an independent third party using an appropriate evaluation procedure. ~~Examples of acceptable evaluation procedures are in Appendix IV;~~

IV. Memoranda

a. Agency-wide Regulations
Reduction Action: To All Boards
and Departments Chairs and
Directors Cal/EPA Agency-wide
Department Points of Contract
from Senior Program Coordinator,
Val F. Siebal

1-10-96

Wrightman



Pete Wilson
Governor

M E M O R A N D U M

James M. Strock
Secretary for
Environmental
Protection

California
Environmental
Protection
Agency

555 Capitol Mall
Suite 235
Sacramento, CA
95814
(916) 445-3846
(916) 445-6401 FAX

**TO: All Boards and Departments Chairs and Directors
Cal/EPA Agency-Wide Departmental Points of Contact**

FROM: Val F. Siebal
Senior Program Coordinator

DATE: January 8, 1996

SUBJECT: AGENCY-WIDE REGULATION REDUCTION ACTION PLAN

Air Resources
Board

Department
of Pesticide
Regulation

Department
of Toxic
Substances
Control

Integrated
Waste
Management
Board

Office of
Environmental
Health Hazard
Assessment

State Water
Resources
Control Board

Regional
Water Quality
Control Boards

The attached "Agency-Wide Regulation Reduction Action Plan" (the "Plan") was prepared to assist you in the expeditious repeal of those regulations identified by your Board/Office/Department, in response to the Governor's Executive Order W-127-5.

The Plan shall be used as guidance in your coordinated efforts to repeal regulations. Although the Plan is consistent with California Rulemaking Law, I recognize the fact that the implementation of rulemaking procedures differ from agency-to-agency. Therefore, the Plan may need to be supplemented with additional information, as required by your respective Board/Office/Department.

Nevertheless, smooth implementation of this regulatory reform effort shall be accomplished as expeditiously as possible.

I suggest that you work closely with Artavia Edwards, Cal/EPA Agency-Wide Coordinator, at the Air Resources Board, (916) 323-9610, if you have any questions regarding the implementation of this Plan.

Please do not hesitate to call me at (916) 324-7584, if you have any questions about this assignment.

Attachment



Recycled Paper

AGENCY-WIDE REGULATION REDUCTION ACTION PLAN

PURPOSE

These guidelines and procedures set forth the implementation of regulatory reform, by repealing those regulations which have been identified by Cal/EPA's Boards/Offices/Departments as suitable for repeal. In order to effectively and efficiently carry out this repeal process, this reduction plan shall be accomplished as expeditiously as possible through coordinated efforts, as specified in this document.

CALIFORNIA RULEMAKING LAW GOVERNING AUTHORITY

- ☛ Administrative Procedure Act, Chapter 3.5 "Administrative Regulations and Rulemaking," Government Code (GC) sections 11340 - 11359; and
- ☛ Office of Administrative Law (OAL) Regulations, Title, 1, California Code of Regulations (CCR), Sections 1 - 128.

CAL/EPA AGENCY-WIDE DEPARTMENTAL COORDINATION/POINTS OF CONTACT

Cal/EPA Agency-Wide Coordinator: Artavia Edwards, Air Resources Board 323-9610

<u>Board/Office/Department</u>	<u>Name of Contact Person</u>	<u>Phone Number</u>
Air Resources Board	Victoria Davis	445-6426
Department of Pesticide Regulation	Steven Monk	445-4000
Department of Toxic Substances Control	Jim McRitchie.	327-1194
Integrated Waste Management Board	Patty Zwarts.	255-2203
Office of Environmental Health Hazard Assessment	Bill Soo Hoo	322-0492
State Water Resources Control Board	Ted Cobb.	657-0406

IDENTIFY REGULATION REPEAL AS CHANGES WITH/WITHOUT REGULATORY EFFECT

First, it is necessary to identify those regulations which will be repealed through:

- 1. "Notice of Proposed Repeal" for changes with regulatory effect, (GC §11346.5); or
- 2. Submittal to the Office of Administrative Law (OAL) as "Changes Without Regulatory Effect," (Title 1, CCR, §100).

Those regulations which have changes with regulatory effect may have already been identified during preparation of the 1996 Rulemaking Calendar.

NOTICE OF PROPOSED REPEAL/CHANGES WITH REGULATORY EFFECT

Schedule notice of proposed action at the earliest practicable date. The attached OAL "1996 Notice Register Schedule" is provided to assist you.

- Prepare: ☛ Notice of Proposed Action (GC §11346.5);
- ☛ Initial Statement of Reasons (GC §11346.2(a)); and
 - ☛ Proposed Regulation Order (GC §11346.2(b)).

If the intent is not to schedule a public hearing, you shall afford all interested persons the opportunity to present statements, arguments, or contentions in writing. Additionally, a public hearing shall be held, if not later than 15 days prior to the close of the written comment period, a duly authorized representative submits in writing to the state agency, a request to hold a public hearing. (GC §11346.8(a).)

If no such request for public hearing is received, prepare Final Statement of Reasons (FSOR), summarizing any written comments received, and compile the Rulemaking File, for submittal to OAL for review. (GC §§11346.9 & 11347.3)

If a public hearing is held, statements arguments, or contentions, either oral or in writing, or both, shall be permitted. Prepare FSOR, summarizing both oral and written comments received, and compile the Rulemaking File, for submittal to OAL for review.

TITLE 1, CCR, §100 SUBMITTAL/CHANGES WITHOUT REGULATORY EFFECT

This method of filing may be used to delete those identified regulatory provisions, which are "Changes Without Regulatory Effect." Under this regulation reduction plan, this option is applicable only for renumbering, reordering, or relocating a regulatory provision (1, CCR, §100(a)(1)). Prepare the following documents and transmit them through Cal/EPA, to OAL.

Prepare: ☞ Seven copies of the Final Regulation Order (1, CCR, §100(b)(1);
☞ Completed Form 400/Facesheet (1, CCR, §100(b)(2); and
☞ Written statement/Transmittal Memorandum justifying this change without regulatory effect, by explaining why the change does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any CCR provision (1, CCR, §100(b)(3)). An example is provided below.

The [name of Board/Office/Department] hereby requests that the following nonsubstantive changes without regulatory effect be made to Title [[#], section(s),] California Code of Regulations (CCR), as indicated on the attached Face Sheet and accompanying regulation text.

Specifically, in response to the Governor's Executive Order W-127-95, these regulations have been identified as suitable for repeal and, therefore, will provide regulatory relief to affected businesses/industry.

The regulations identified in this request reflects the efforts of the impacted business and environmental communities in providing regulatory relief, without materially altering any requirement, right, responsibility, condition, prescription or other regulatory element of any CCR provision. The revisions are therefore, "changes without regulatory effect."

Thank you for your consideration in this matter. If you have any questions, please call [name of contact person] at [phone number].

Attachment

NOTICE REGISTER SCHEDULE 1996

NOTE TO OAL

HAPPY NEW YEAR!!!!

JANUARY	2, 1996
JANUARY	9, 1996
JANUARY	16, 1996
JANUARY	23, 1996
JANUARY	30, 1996
FEBRUARY	6, 1996
FEBRUARY	13, 1996
FEBRUARY	20, 1996
FEBRUARY	27, 1996
MARCH	5, 1996
MARCH	12, 1996
MARCH	19, 1996
MARCH	26, 1996
APRIL	2, 1996
APRIL	9, 1996
APRIL	16, 1996
APRIL	23, 1996
APRIL	30, 1996
MAY	7, 1996
MAY	14, 1996
MAY	21, 1996
MAY	28, 1996
JUNE	4, 1996
JUNE	11, 1996
JUNE	18, 1996
JUNE	25, 1996
JULY	2, 1996
JULY	9, 1996
JULY	16, 1996
JULY	23, 1996
JULY	30, 1996
AUGUST	6, 1996
AUGUST	13, 1996
AUGUST	20, 1996
AUGUST	27, 1996
SEPTEMBER	3, 1996
SEPTEMBER	10, 1996
SEPTEMBER	17, 1996
SEPTEMBER	24, 1996
OCTOBER	1, 1996
OCTOBER	8, 1996
OCTOBER	15, 1996
OCTOBER	22, 1996
OCTOBER	29, 1996
NOVEMBER	5, 1996
NOVEMBER	12, 1996
NOVEMBER	19, 1996
NOVEMBER	26, 1996
DECEMBER	3, 1996
DECEMBER	10, 1996
DECEMBER	17, 1996
DECEMBER	24, 1996
DECEMBER	31, 1996

PUBLICATION DATE

JANUARY	12, 1996
JANUARY	19, 1996
JANUARY	26, 1996
FEBRUARY	2, 1996
FEBRUARY	9, 1996
FEBRUARY	16, 1996
FEBRUARY	23, 1996
MARCH	4, 1996
MARCH	11, 1996
MARCH	15, 1996
MARCH	22, 1996
MARCH	29, 1996
APRIL	5, 1996
APRIL	12, 1996
APRIL	19, 1996
APRIL	26, 1996
MAY	3, 1996
MAY	10, 1996
MAY	17, 1996
MAY	24, 1996
MAY	31, 1996
JUNE	7, 1996
JUNE	14, 1996
JUNE	21, 1996
JUNE	28, 1996
JULY	5, 1996
JULY	12, 1996
JULY	19, 1996
JULY	26, 1996
AUGUST	2, 1996
AUGUST	9, 1996
AUGUST	16, 1996
AUGUST	23, 1996
AUGUST	30, 1996
SEPTEMBER	6, 1996
SEPTEMBER	13, 1996
SEPTEMBER	20, 1996
SEPTEMBER	27, 1996
OCTOBER	4, 1996
OCTOBER	11, 1996
OCTOBER	18, 1996
OCTOBER	25, 1996
NOVEMBER	1, 1996
NOVEMBER	8, 1996
NOVEMBER	15, 1996
NOVEMBER	22, 1996
DECEMBER	2, 1996
DECEMBER	6, 1996
DECEMBER	13, 1996
DECEMBER	20, 1996
DECEMBER	27, 1996
JANUARY	3, 1997
JANUARY	10, 1997

45-DAY WRITTEN COMMENT PERIOD

FEBRUARY	26, 1996
MARCH	5, 1996
MARCH	12, 1996
MARCH	19, 1996
MARCH	26, 1996
APRIL	2, 1996
APRIL	9, 1996
APRIL	18, 1996
APRIL	25, 1996
APRIL	29, 1996
MAY	6, 1996
MAY	13, 1996
MAY	20, 1996
MAY	28, 1996
JUNE	3, 1996
JUNE	10, 1996
JUNE	17, 1996
JUNE	24, 1996
JULY	1, 1996
JULY	8, 1996
JULY	15, 1996
JULY	22, 1996
JULY	29, 1996
AUGUST	5, 1996
AUGUST	12, 1996
AUGUST	19, 1996
AUGUST	26, 1996
SEPTEMBER	3, 1996
SEPTEMBER	9, 1996
SEPTEMBER	16, 1996
SEPTEMBER	23, 1996
SEPTEMBER	30, 1996
OCTOBER	7, 1996
OCTOBER	15, 1996
OCTOBER	21, 1996
OCTOBER	28, 1996
NOVEMBER	4, 1996
NOVEMBER	12, 1996
NOVEMBER	18, 1996
NOVEMBER	25, 1996
DECEMBER	2, 1996
DECEMBER	9, 1996
DECEMBER	16, 1996
DECEMBER	23, 1996
DECEMBER	30, 1996
JANUARY	6, 1997
JANUARY	16, 1997
JANUARY	21, 1997
JANUARY	27, 1997
FEBRUARY	3, 1997
FEBRUARY	10, 1997
FEBRUARY	18, 1997
FEBRUARY	24, 1997

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

Air Resources Board
Department of Pesticide Regulation
Department of Toxic Substances Control
Integrated Management Board
Office of Environmental Health Hazard Assessment
State Water Resources Control Board

SCHEDULE FOR REGULATION REDUCTION ACTION PLAN

Pre-Hearing Notice Activities (already achieved):

- Regulation identified as obsolete or no longer necessary.
 - Workshops conducted to discuss elimination of identified regulations.
- Informal invitation for ideas or suggestions from those that may be affected by the regulation reduction action. This important step ensures meaningful public participation.

FORMAL PUBLIC REVIEW (Changes With Regulatory Effect)

- Prepare: Text of Proposed Regulation
- Notice of Proposed Action
- Initial Statement of Reasons (ISOR)

Formal Public Review:

- Submit to OAL for Formal 45-day publication. (See OAL 1996 Notice Register Schedule)
- Review and summarize 45-day comments, upon receipt.
- Staff proposed regulation modifications in response to comments (if applicable).
- Formal public hearing held (if applicable).
- Consider oral testimony and prepare response to comments (if applicable).

Modifications to regulations at hearing/based on public comment:

- 15-day availability of modified regulations (if applicable)
- Review and summarize 15-day comments upon receipt.

Compilation of Rulemaking Record:

- Summarize and respond to all written and oral testimony (objections/recommendations).
- Update information contained in the ISOR in the Final Statement of Reasons (FSOR).
- Compile rulemaking proceeding by compiling all data and factual information relied upon.

✓ A complete rulemaking record may contain the following items, as applicable:

OAL Face Sheet
Final Regulation Order
Closing Certification/Declaration
Index/Table of Contents
Updated Informative Digest
Executive Order
Resolution
Final Statement of Reasons
Notice of Decision and Response to Significant Environmental Issues
Fiscal Impact Statement
Public Hearing Notice and Certification of Mailing
Initial Statement of Reasons for Proposed Rulemaking, Including Initial Text of Proposed Regulation
Hearing Transcript
Copies of Slide Presentation (if used)
Written Comments Received During the 45-Day Notice Period
Notice of Availability of Modified Text (15-Day Notice)
Written Comments Received During the 15-Day Comment Period
Documents Incorporated by Reference
References

- Forward to Val Siebal, Senior Program Coordinator, for Cal/EPA review.
- Record returned to Board/Office/Department for submittal to OAL.
- File for review with OAL.

<p>→TITLE 1, CCR, §100 SUBMITTAL/CHANGES WITHOUT REGULATORY EFFECT</p>

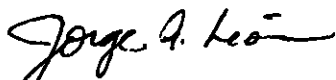
- Prepare: Seven copies of the Final Regulation Order.
- Completed Form 400/Facesheet.
- Written statement/Transmittal Memorandum, justifying this change.
- Forward to Val Siebal, for Cal/EPA review.
- Record returned to Board/Office/Department for submittal to OAL.
- File for review with OAL.

b. Rulemaking Calendar - 1996: To Jesse Diaz, DWQ, Roger Johnson, DWR, David Holtry, CWP, Sandy Malos, CWP, Barbara Wightman, CWP, Ted Cobb, OCC, Tim Stevens, DWQ, Kathy Harder, CWP, Patricia Meroney, DWR, and Liz Haven, CWP from Jorge A. Leon, Staff Counsel of the Office of Chief Counsel, dated January 22, 1996

Memorandum

To : Jesse Diaz, DWQ
John Norton, DWQ
Roger Johnson, DWR
David Holtry, CWP
Sandy Malos, CWP
Barbara Wightman, CWP
Ted Cobb, OCC
Tim Stevens, DWQ
Kathy Harder, CWP
Patricia Meroney, DWR
Liz Haven, CWP

Date: JAN 22 1996



Jorge A. León
Senior Staff Counsel
From : OFFICE OF THE CHIEF COUNSEL
STATE WATER RESOURCES CONTROL BOARD
901 P Street, Sacramento, CA 95814
Mail Code G-8

Subject: RULEMAKING CALENDAR--1996

At our meeting of Wednesday, January 10, 1996, I agreed to distribute copies of a memo that generally describes the rulemaking timelines for substantive amendments and repeals. A copy is attached.

I also agreed to provide copies of an Office of Administrative Law publication, "California Rulemaking Law" to all SWRCB contact persons. The newest version of the document, which includes revisions to the law, is due out on February 1, 1996. Copies have been ordered and will be distributed as soon as we receive them.

Thank you all for providing the information I needed to prepare the 1996 Rulemaking Calendar. Attached is a copy for your use.

Attachments

Memorandum

July 26, 1995

To: Bill Attwater

From: Jorge Leon

RE: Rulemaking Process

You asked for an outline of timing requirements for adoption of non-emergency regulations. Theoretically, viewing the statutory time requirements only, a proposed regulation can go from issuance of notice to filing with OAL in four months. Many factors, however, extend that period to an average of nine months. These factors include staff experience with regulations, unanticipated comments, and unanticipated modifications requiring more notice.

The time periods marked with an asterisk are statutory time periods. Others are minimum time periods based on experience. Also, the following timetable does not take into account the significant in-house preparation work that goes into the development of a regulation.

<u>TIME PERIOD</u>	<u>REQUIREMENT</u>
10 days* prior to desired publication date	California Notice Register Submittal to include: Form 400 Initial Statement of Reasons
45 days* prior to close of public comment (the 10- and 45-day periods can run concurrently)	Notice of Action & Hearing to include: Informative Digest Economic Impact Determination Best Alternative Determination Deadline for Receipt of Comments
15 days	Preparation of staff responses to comments for discussion at hearing. Can be less in simple cases, more in complex matters with numerous comments.
15 days*	If there are substantive changes following receipt of comments, 15 days notice must be provided for further comments. If substantial comments are anticipated, more should be allowed to allow staff to respond.
30 days*	Notice of Adoption Hearing. This period can overlap with the previous time period.
10 days	Preparation of Rulemaking File for submittal to OAL. Requires of addition of Final Statement of Reasons, Final Best Alternative

determination, and Updated Informative Digest. Again, time depends on size of file, complexity of matter.

3 days*

Initial Review by OAL for minimal requirements. If critical elements are missing, OAL will return File immediately.

30 days*

OAL Review. If not acted upon within 30 days, action is deemed approved.

30 days*

Action becomes effective 30 days after filing with the Secretary of State.

STATE WATER RESOURCES CONTROL BOARD
1996 PROPOSED RULEMAKING CALENDAR

Chapter Number and or Statute	Contact Person & Phone Number	Subject	Projected Dates For:				
			Notice	Hearing	Adoption	To OAL	Major Regulation

Schedule A

§ 25281 Health & Safety Code; SB 1764	Dee Dee Fiedler (916) 227-4701	UNDERGROUND STORAGE TANKS CLEANUP FUND. Revises several sections of the Cleanup Fund Regulations to conform with legislative amendments. (Title 23, Art. 4, §§ 2810 & 2811)	4/95	8/95 11/95	9/95 4/96	9/95 5/96	
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Schedule B

§ 13172 Water Code AB 1220	Liz Haven (916) 227-4395	DISCHARGES OF WASTE TO LAND. Revises regulations known as "Chapter 15" relating to landfills to comply with federal requirements & to remove overlap of authority between Integrated Waste Management Board and State Water Resources Control Board. (Title 23, § 2510 et seq.)	7/96	9/96	11/96	12/96	X
§§ 13395, 13970, 13985 Water Code	Sandy Malos (916) 227-4457	CLEAN WATER GRANTS PROGRAM. Repeals all regulations concerning Clean Water Grants Program. (Title 23, §§ 3610-3663)	4/96	6/96	7/96	8/96	
§§ 13400, 13962(e), 13976(d), 13991(d) Water Code	Sandy Malos (916) 227-4457	LOANS TO PUBLIC AGENCIES. Repeals all regulations concerning loans to public agencies. (Title 23, §§ 3580-3598)	4/96	6/96	7/96	8/96	

Chapter Number and or Statute	Contact Person & Phone Number	Subject	Projected Dates For:				
			Notice	Hearing	Adoption	To OAL	Major Regulation

**Contact Person
& Phone Number**

Subject**Projected Dates For:**

Notice

Hearing

Adoption

TO OAL

Major Regulation

SS 13203, 185, Ted Cobb
1058 Water Code (916) 657-0406

GENERAL PROVISIONS.
Repeals regulations concerning
definitions, purpose, use, &
effect of regulations.
(Title 23, §§ 640-640.1)

4/96

7/96

8 / 96

SS 11120 et Ted Cobb
seq., Gov't (916) 657-0406
Code;
SS 185, 1058
Water Code

**RULES OF PRACTICE AND
PROCEDURE.** Repeals regulations
concerning Board meetings,
adjudicatory proceedings,
rulemaking, & subpoenas.
(Title 23, §§ 647-649.6)

4/96

7/96

8 / 96

§ 13320 Ted Cobb
Water Code (916) 657-0406

REVIEW BY STATE BOARD OF ACTION
OR FAILURE TO ACT BY A REGIONAL
BOARD. Repeals regulations
concerning consolidation and
notice.
(Title 23, §§ 2054, 2055,
& 2068)

4/96

7/96

8 / 96

SS 174, 183,
 275, 1075,
 1080, 1100,
 1105, 1250,
 1251, 1252,
 1260, 1342
 Water Code

Patricia Meroney
 (916) 657-1868

APPROPRIATION OF WATER.
Repeals regulations concerning application and beneficial use assessment, special situation applications, investigations, hearings, temporary changes, changes in ownership, revocation of permits and licenses, and prevention of waste and unreasonable use.
(Title 23, §§ 705, 706, 707, 708, 709, 710, 711, 736, 737, 738, 739, 755, 756, 760, 761, 762, 763, 764, 764.12, 764.13, 764.14, 765, 766, 767, 771, 830, 831, 832, 833, 834, 835, 836, 851, 852, 860)

4 / 96

7/96

8/96

Chapter Number and or Statute	Contact Person & Phone Number	Subject	Projected Dates For:				
			Notice	Hearing	Adoption	To OAL	Major Regulation
§§ 1051, 1225, 1226, 1226.1 Water Code	Patricia Meroney (916) 657-1868	WATER RIGHTS FOR STOCKPONDS. Repeals regulations concerning water rights for stockponds. (Title 23, §§ 880-906)	4/96	6/96	7/96	8/96	
§§ 183, 1051, 2650 Water Code	Patricia Meroney (916) 657-1868	DETERMINATION OF RIGHT TO THE USE OF WATER. Repeals regulations concerning definitions, other applicable regulations, & inspection of records. (Title 23, §§ 940, 950, & 951)	4/96	6/96	7/96	8/96	
§§ 13283, 13300 Water Code	John Norton (916) 657-0522	ENFORCEMENT PROCEDURES. Repeals regulations concerning cease & desist orders & threatened violations of time schedules. (Title 23, §§ 2240 & 2242)	4/96	6/96	7/96	8/96	
§§ 185, 1058, 13169 Water Code	John Norton (916) 657-0522	LICENSING & REGULATION OF USE OF OIL SPILL CLEANUP AGENTS. Repeals regulations concerning licensing & regulation of use of oil spill cleanup agents. (Title 23, §§ 2300-2336)	4/96	6/96	7/96	8/96	
26 USC § 169; 40 CFR § 20; 15 USC § 636; 40 CFR § 21	John Norton (916) 657-0522	CERTIFICATIONS. Repeals regulations concerning application for & issuance of certifications. (Title 23, §§ 3841-3852)	4/96	6/96	7/96	8/96	
✓ §§ 185, 1058 Water Code	Barbara Wightman (916) 227-4318	UNDERGROUND TANK REGULATIONS. Repeals appendices concerning underground tanks. (Title 23, Div. 3, Ch. 16, Art. 10)	4/96	6/96	7/96	8/96	

Chapter Number and or Statute	Contact Person & Phone Number	Subject	Projected Dates For:				
			Notice	Hearing	Adoption	To OAL	Major Regulation

§§ 13626, 13627 Kathy Harter
Water Code (916) 227-9567

CLASSIFICATION OF WASTEWATER
TREATMENT PLANTS AND AGENCY
CERTIFICATION OF OPERATORS AND
CONTRACTOR OPERATOR
REGISTRATION. Amends
regulations to provide for
certification of wastewater
treatment plant operators at
advanced treatment levels.
(Title 23, Chapter 26)

3/96 6/96 7/96 8/96

33 USC § 1341 Tim Stevens
(916) 657-1022

CERTIFICATIONS. Amends
existing regulations regarding
certifications to add
clarifying language. Amends
regulations relating to Water
Quality Certification to
provide for action on
applications by Regional Board
Executive Officers.
(Title 23, Div. 3, Ch. 28)

8/96 10/96 12/96 2/97


c. Project: Regulations

Reduction: To Jorge Leon, Senior Staff Counsel of the Office of Chief, Counsel from Barbara Wightman, Regulations Coordinator of the UST Program, dated February 29, 1996

MEMORANDUM

To: Jorge León
Senior Staff Counsel
Office of the Chief Counsel

Date: February 29, 1996


From: Barbara Wightman, Regulations Coordinator
Underground Storage Tank Program
Division of Clean Water Programs
State Water Resources Control Board
2014 T Street, Sacramento, CA 95814
Mail Code G-8

Subject: PROJECT: REGULATIONS REDUCTION

Here is my Form 400 to go along with my regs package.

Let me know if you need me to make changes before we send to OAL.

Thank you for all your help and for the copy of OAL's checklist. It has always saved the day for me.

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 7-80)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER	PREVIOUS REGULATORY ACTION NUMBER
For use by Office of Administrative Law (OAL) only				
NOTICE		REGULATIONS		
AGENCY State Water Resources Control Board (CWP)			AGENCY FILE NUMBER (if any)	

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)	
SECTIONS AFFECTED	ADOPT N/A
	AMEND Title 23; Division 3, CH 16 2635(d); 2636 (c)(2); 2643(a); 2643(f)(1); 2644; 2648(b)
	REPEAL Appendices III, IV, & V

2. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code, § 11346)	<input type="checkbox"/> Resubmittal	<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)	<input type="checkbox"/> Emergency (Gov. Code, § 11346.1(b))
<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.			
<input type="checkbox"/> Print Only <input type="checkbox"/> Other (specify)			

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

<input type="checkbox"/> Effective 30th day after filing with Secretary of State	<input type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> Effective other (Specify)
--	--	--

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify)		

6. CONTACT PERSON

Barbara Wightman

TELEPHONE NUMBER
227-4318

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

TYPED NAME AND TITLE OF SIGNATORY

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90) (REVERSE)

INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

V. State Water Resources Control Board - 1996 Rulemaking Calendar

STATE WATER RESOURCES CONTROL BOARD
1996 PROPOSED RULEMAKING CALENDAR

Chapter Number and or Statute	Contact Person & Phone Number	Subject	Projected Dates For:				
			Notice	Hearing	Adoption	To OAL	Major Regulation

Schedule A

§ 25281 Health & Safety Code; SB 1764	Dee Dee Fiedler (916) 227-4701	UNDERGROUND STORAGE TANKS CLEANUP FUND. Revises several sections of the Cleanup Fund Regulations to conform with legislative amendments. (Title 23, Art. 4, §§ 2810 & 2811)	4/95	11/95	4/96	5/96	
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Schedule B

§ 13172 Water Code AB 1220	Liz Haven (916) 227-4395	DISCHARGES OF WASTE TO LAND. Revises regulations known as "Chapter 15" relating to landfills to comply with federal requirements & to remove overlap of authority between Integrated Waste Management Board and State Water Resources Control Board. (Title 23, § 2510 et seq.)	7/96	9/96	11/96	12/96	X
§§ 13395, 13970, 13985 Water Code	Sandy Malos (916) 227-4457	CLEAN WATER GRANTS PROGRAM. Repeals all regulations concerning Clean Water Grants Program. (Title 23, §§ 3610-3663)	3/96	4/96	5/96	6/96	
§§ 13400, 13962(e), 13976(d), 13991(d) Water Code	Sandy Malos (916) 227-4457	LOANS TO PUBLIC AGENCIES. Repeals all regulations concerning loans to public agencies. (Title 23, §§ 3580-3598)	3/96	4/96	5/96	6/96	

Chapter Number and or Statute	Contact Person & Phone Number	Subject	Projected Dates For:				
			Notice	Hearing	Adoption	To OAL	Major Regulation
§§ 13203, 185, 1058 Water Code	Ted Cobb (916) 657-0406	GENERAL PROVISIONS. Repeals regulations concerning definitions, purpose, use, & effect of regulations. (Title 23, §§ 640-640.1)	3/96	4/96	5/96	6/96	
§§ 11120 et seq., Gov't Code; §§ 185, 1058 Water Code	Ted Cobb (916) 657-0406	RULES OF PRACTICE AND PROCEDURE. Repeals regulations concerning Board meetings, adjudicatory proceedings, rulemaking, & subpoenas. (Title 23, §§ 647-649.6)	3/96	4/96	5/96	6/96	
§ 13320 Water Code	Ted Cobb (916) 657-0406	REVIEW BY STATE BOARD OF ACTION OR FAILURE TO ACT BY A REGIONAL BOARD. Repeals regulations concerning consolidation and notice. (Title 23, §§ 2054, 2055, & 2068)	4/96	6/96	7/96	8/96	
§§ 174, 183, 275, 1075, 1080, 1100, 1105, 1250, 1251, 1252, 1260, 1342 Water Code	Patricia Meroney (916) 657-1868	APPROPRIATION OF WATER. Repeals regulations concerning application and beneficial use assessment, special situation applications, investigations, hearings, temporary changes, changes in ownership, revocation of permits and licenses, and prevention of waste and unreasonable use. (Title 23, §§ 705, 706, 707, 708, 709, 710, 711, 736, 737, 738, 739, 755, 756, 760, 761, 762, 763, 764, 764.12, 764.13, 764.14, 765, 766, 767, 771, 830, 831, 832, 833, 834, 835, 836, 851, 852, 860)	4/96	6/96	7/96	8/96	

Chapter Number and or Statute	Contact Person & Phone Number	Subject	Projected Dates For:				
			Notice	Hearing	Adoption	To OAL	Major Regulation
§§ 1051, 1225, 1226, 1226.1 Water Code	Patricia Meroney (916) 657-1868	WATER RIGHTS FOR STOCKPONDS. Repeals regulations concerning water rights for stockponds. (Title 23, §§ 880-906)	4/96	6/96	7/96	8/96	
§§ 183, 1051, 2650 Water Code	Patricia Meroney (916) 657-1868	DETERMINATION OF RIGHT TO THE USE OF WATER. Repeals regulations concerning definitions, other applicable regulations, & inspection of records. (Title 23, §§ 940, 950, & 951)	3/96	4/96	5/96	6/96	
§§ 13283, 13300 Water Code	John Norton (916) 657-0522	ENFORCEMENT PROCEDURES. Repeals regulations concerning cease & desist orders & threatened violations of time schedules. (Title 23, §§ 2240 & 2242)	4/96	6/96	7/96	8/96	
§§ 185, 1058, 13169 Water Code	John Norton (916) 657-0522	LICENSING & REGULATION OF USE OF OIL SPILL CLEANUP AGENTS. Repeals regulations concerning licensing & regulation of use of oil spill cleanup agents. (Title 23, §§ 2300-2336)	4/96	6/96	7/96	8/96	
26 USC § 169; 40 CFR § 20; 15 USC § 636; 40 CFR § 21	John Norton (916) 657-0522	CERTIFICATIONS. Repeals regulations concerning application for & issuance of certifications. (Title 23, §§ 3841-3852)	3/96	4/96	5/96	6/96	
§§ 185, 1058 Water Code	Barbara Wightman (916) 227-4318	UNDERGROUND TANK REGULATIONS. Repeals appendices concerning underground tanks. (Title 23, Div. 3, Ch. 16, Art. 10)	3/96	4/96	5/96	6/96	

Chapter Number and or Statute	Contact Person & Phone Number	Subject	Projected Dates For:				
			Notice	Hearing	Adoption	To OAL	Major Regulation

<p>§§ 13626, 13627 Water Code</p>	<p>Kathy Harter (916) 227-9567</p>	<p>CLASSIFICATION OF WASTEWATER TREATMENT PLANTS AND AGENCY CERTIFICATION OF OPERATORS AND CONTRACTOR OPERATOR REGISTRATION. Amends regulations to provide for certification of wastewater treatment plant operators at advanced treatment levels. (Title 23, Chapter 26)</p>	3/96	6/96	7/96	8/96	
<p>33 USC § 1341</p>	<p>Tim Stevens (916) 657-1022</p>	<p>CERTIFICATIONS. Amends existing regulations regarding certifications to add clarifying language. Amends regulations relating to Water Quality Certification to provide for action on applications by Regional Board Executive Officers. (Title 23, Div. 3, Ch. 28)</p>	8/96	10/96	12/96	2/97	

VI. List of Contacts

STATUTE	CONTACT	SUBJECT	NTC HRNG TO OAL. MAJOR?	<i>Frank</i> ADPT.
	Sandy Malos (916)227-4457	CLEAN WATER GRANTS PROGRAM Repeals all regulations concerning CWGP except Review of Action of Division provisions (Title 23, Sections 3610-3651 and 3659-3663)		5/96, 8/96, 8/96, 9/96
	Sandy Malos 9916)227-4457	LOANS TO PUBLIC AGENCIES Repeals all regulations concerning Loans to Public Agencies (Title 23, Sections 3580-3598)		
	Ted Cobb ?	GENERAL PROVISIONS Repeals regulations concerning definitions and purpose, use and effect of regulations (Title 23, Sections 640-640.1)		
	Ted Cobb ?	RULES OF PRACTICE AND PROCEDURE Repeals regulations concerning Board Meetings, Adjudicatory Proceedings Rulemaking and Subpoenas. (Title 23, Sections 647-649.6)		
	Ted Cobb ?	REVIEW BY STATE BOARD OF ACTION OR FAILURE TO ACT BY A REGIONAL BOARD Repeals regulations concerning consolidation and notice. (Title 23, Sections 2054, 2055, & 2068)		
	Andy Sawyer ?	APPROPRIATION OF WATER Repeals regulations concerning application and beneficial use assessment, special situation applications, investigations, hearings, temporary changes, changes in ownership, revocation of permits and licenses, and prevention of waste and unreasonable use. (Title 23, Sections 705,860)		